

BUREAU OF THE FIRE MARSHAL

Chapter 50: DEATH BENEFITS FOR FIREFIGHTERS WHO DIE IN THE LINE OF DUTY.

This chapter outlines the procedures governing the award of death benefits to the child, spouse or parent of a firefighter who dies while in the line of duty.

SECTION 1. DEFINITIONS

1. **Child** means any natural born or unborn child, legally adopted child or stepchild of a firefighter who, at the time of the firefighter's death, is:
 - A. conceived or less than 19 years of age;
 - B. 19 or more years of age, but less than 25 years of age, and accepted for admission or enrolled in a full-time postsecondary educational institution; or
 - C. 19 or more years of age and is incapable of self-support because of a physical or mental disability.
2. **Died while in the line of duty** means to cease to be alive or to sustain an injury or illness that results in death during the performance of a firefighter's official duty.
3. **Firefighter** means an active municipal firefighter or an active volunteer firefighter, as defined in 30-A M.R.S.A. §3151.
4. **Fire Marshal** means the person appointed as the State Fire Marshal by the Commissioner of the Department of Public Safety pursuant to 25 M.R.S.A. Chapter 315 §2396.
5. **Official duty** means an action that a firefighter is authorized or obligated by law, rule, regulation or condition of employment or service to perform.
6. **Parent** means the natural or adoptive mother or father, or the stepmother or stepfather, whose parental rights have not been terminated and who contributed significantly to the upbringing of a firefighter.
7. **Spouse** means a person who is legally married to a firefighter at the time of the firefighter's death.
8. **Under the influence** means under the influence of alcohol, a drug other than alcohol, a combination of drugs or a combination of alcohol and drugs or having a blood alcohol level of .08% or more.

SECTION 2. DEATH BENEFIT – AMOUNT AND RECEIPT

1. If the Fire Marshal determines that a firefighter died while in the line of duty, the State shall pay a benefit of \$50,000 as follows:
 - A. If there is no surviving child of the firefighter, to the surviving spouse;
 - B. If there is a surviving child or children and a surviving spouse of the firefighter, 1/2 to the surviving child or children in equal shares and 1/2 to the surviving spouse;
 - C. If there is no surviving spouse of the firefighter, to the child or children in equal shares; or
 - D. If there is no surviving child or spouse, to the parent or parents of the firefighter, in equal shares.

SECTION 3. LIMITATION ON BENEFIT

1. Notwithstanding a determination by the Fire Marshal that a firefighter died while in the line of duty, a benefit may not be paid:
 - A. If the death or the injury or illness that resulted in the death was caused by the intentional misconduct of the firefighter or by the firefighter's intention to bring about the death or the injury or illness that resulted in the death;
 - B. If the firefighter was voluntarily under the influence at the time of the death or the injury or illness that resulted in the death and being under the influence was a substantial contributing factor in the death or the injury or illness that resulted in the death;
 - C. If the firefighter was performing in a grossly negligent manner at the time of the death or the injury or illness that resulted in the death; or
 - D. To any person who would otherwise be entitled to a benefit pursuant to 25 M.R.S.A. c. 195-A and this chapter, if the person's actions were a substantial contributing factor to the death of the firefighter.
 - E. If the potentially eligible child, spouse or parent dies prior to actual receipt of this death benefit.

SECTION 4. FILING REQUEST FOR BENEFIT

1. A person who is potentially eligible to receive these benefits, or a person authorized to request benefits acting as an agent of a potentially eligible person, must forward a written request to the Fire Marshal for a State of Maine Application for Line of Duty Death Benefit within 90 days of the firefighter's death. The 90 day period may be extended by the Fire Marshal for good cause shown.
2. Upon receipt of the written request for a State of Maine Application for Line of Duty Death Benefit, the Fire Marshal shall provide an application package and questionnaire that must be completed and returned within 30 days of receipt by the applicant. The 30 day period may be extended by the Fire Marshal for good cause shown.

SECTION 5. DETERMINATION OF ELIGIBILITY FOR BENEFIT

1. Upon receipt of a completed State of Maine Application for Line of Duty Death Benefit, the Fire Marshal shall appoint a review panel consisting of at least three, but not more than five, persons knowledgeable in firefighters official duties.
2. The review panel shall convene to review the application, investigate the circumstances surrounding the death and make a written recommendation to approve or deny the application to the Fire Marshal within 30 days. If the Fire Marshal determines that further investigation is necessary, the Fire Marshal may extend the review period.
3. The Fire Marshal, after review of the recommendation, shall make the determination to approve or deny the application in a timely manner. The Fire Marshal's determination is the final agency decision.

SECTION 6. INTERIM BENEFITS

The Fire Marshal may make interim benefits payments in accordance with and subject to the limitations outlined in 25 M.R.S.A. §1612.

SECTION 7. APPEAL

An appeal of the final agency decision may be filed in accordance with the Administrative Procedures Act, 5 M.R.S.A. c. 375, sub-c. VII.

STATUTORY AUTHORITY: 25 M.R.S.A. §1612, sub-§8.

EFFECTIVE DATE:**BASIS STATEMENT**

These rules are adopted to delineate the requirements that must be followed in order for the surviving child, spouse or parent of a firefighter who died while in the line of duty to receive a death benefit from the State.